

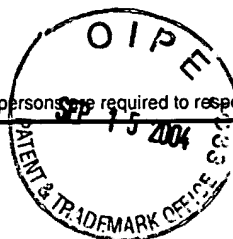
## Mail Stop RCE

Modified PTO/SB/30 (08-00)

Approved for use through 10/31/2002, OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995  
See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/740,486
Filing Date	December 19, 2000
First Named Inventor	WAGGONER
Group Art Unit	1639
Examiner Name	Ponnaluri
Attorney Docket Number	4091-2

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See *Changes to Application Examination and Provisional Application Practice*, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

## 1. Submission required under 37 C.F.R. § 1.114

- a. ☒ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered)
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☒ Other Information Disclosure Statement of July 21, 2004
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☒ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

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## 2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 35 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☐ Applicant claims "small entity" status.
- b. ☒ Fees are attached as calculated below:
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e) \$ 770.00
- ii. ☐ Petition is made to extend the due date \_\_\_\_\_ months (less \_\_\_\_\_ months previously paid) \$
- iii. ☐ Other \_\_\_\_\_ \$
- c. ☒ Check in the amount of \$770.00 \_\_\_\_\_ enclosed
- d. ☐ Payment by credit card (Form PTO-2038 enclosed)
- e. ☒ The Director is hereby authorized to charge any deficiency in the fee(s) filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm), to Deposit Account No. 14-1140

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

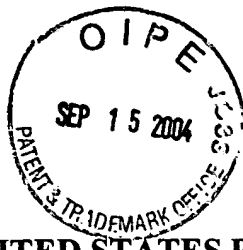
Name (Print Type)	Arthur R. Crawford	Registration No. (Attorney/Agent)	25,327
Signature		Date	September 15, 2004

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on:

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

WAGGONER

Atty. Ref.: 4091-2; Confirmation No. 6161

Appl. No. 09/740,486

TC/A.U. 1639

Filed: December 19, 2000

Examiner: Ponnaluri

For: CYANINE DYES AS LABELING REAGENTS FOR DETECTION OF  
BIOLOGICAL AND OTHER MATERIALS BY LUMINESCENCE METHODS

\* \* \* \* \*

September 15, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE AND PRESENTATION OF EVIDENCE**

This responds to issues raised in the Official Action of January 23, 2004, Paper No. 26 and accompanies a Request for Continued Examination. Included in this Action are prior art-based rejections citing two U.S. patents in the name of Masuda et al.

In the Official Action the examiner expresses concerns that the dyes described in the Masuda references fall within the terms defined by the current claims and argues they would inherently have a molecular extinction coefficient and average quantum yield stated in applicant's claims "absent a showing of differences".

The examiner furthermore invites presentation of any evidence showing that the dyes used in the applied references do not have the molecular extinction coefficient and average quantum yield falling within the applicant's claims.

Applicant responds to this invitation and presents herewith a Joint Declaration Under 37 C.F.R. §1.132 by Drs. Burrows and West. Their report follows a study of the